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THE SITUATION IN THE OCCUPIED
TERRITORIES OF CROATIA

SECURITY COUNCIL
Fiftieth year

Letter dated 24 October 1995 from the Chargé d'affaires a.i.
of the Permanent Mission of Yugoslavia to the United Nations
addressed to the Secretary-General

Upon instructions of my Government, I am writing to you concerning item 92 of the agenda of the fiftieth regular session of the General Assembly, "The situation in the occupied territories of Croatia", to be considered by the Special Political and Decolonization Committee (Fourth Committee) on 1 November 1995.

The Government of the Federal Republic of Yugoslavia would like to point to the following political and legal inconsistencies in regard to this issue.

The very title of this item represents a contradictio in adjecto. The general rule of international law, set out in article 42 of the Regulations Respecting the Laws and Customs of War on Land, annexed to the Fourth Hague Convention of 1907, stipulates that "Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised". From the legal and political point of view, it is impossible for one people to commit aggression against its own territory. Since there is no aggression, there can be no occupation either (there was no invasion of one sovereign State by another).

In Slavonia, Western Srem and Krajina, the war was waged between the Serb population of the former Republic of Croatia and new Croatian authorities which openly rebelled against the state and constitutional order of the Socialist Federal Republic of Yugoslavia. Under the Constitution, the obligation of the Army of Yugoslavia (JNA) was to protect territorial integrity and sovereignty, the same principle that Croatia now invokes under General Assembly resolution 49/43.

Unfortunately, following the coming to power of the extreme chauvinist party, the Croatian Democratic Community (HDZ), and particularly after the unilateral adoption of the Declaration of Independence, the Serbs were deprived of their constitutional status of constituent people and exposed to large-scale terror and discrimination. The Croatian authorities reinstated the state symbols and insignia of the notorious fascist puppet so-called "Independent State of Croatia" which was responsible for the genocide and deaths of hundreds of thousands of Serbs. Nevertheless, the Tudjman Government has openly referred to that fascist State as a nucleus of Croatian statehood. In his book Wastelands of Historical Realities, President Tudjman stated, inter alia, that "hegemonists and unitarists forget that the NDH (Independent State of Croatia 1941-45) was not only a 'quisling creation' and 'a fascist crime', but an expression of the historic aspirations the Croatian people towards an independent state and the realization of international factors ...".

Unfortunately, in many ways, the present day Croatian State uses the same methods - terror, genocide, ethnic cleansing - in an attempt to fulfil the goals of an out-dated, intolerant and fascist ideology. So it is not surprising that, in the interest of peace and security and in order to protect the Serb population in Krajina, the United Nations decided to place those areas under international protection. The legal status of the United Nations Protected Areas has been determined by the Vance plan which was accepted by Croatia and approved by the Security Council in its resolution 740 (1992).

The Croatian Government undertook to create conditions for the peaceful resolution of the crisis as stated by Mr. Ivan Simonovic, Assistant Minister for Foreign Affairs, in the Fourth Committee last year: "When we come before this Committee today and before the General Assembly to seek support that would promote ... a solution which will satisfy the individual and collective rights of all Croatian citizens within the framework of international law and international standards, and a solution which will hold responsible all of those who have violated them, we are not talking exclusively about national interests".

Despite the demand contained in General Assembly resolution 49/43, pursuant to which Croatia has committed itself not to use force to resolve the crisis, the international community witnessed a brutal aggression by the Croatian Government against the Serb civilian population in the United Nations Protected Areas. By resorting to the scorched earth policy, the Croatian army expelled 200,000 Serb civilians. Contrary to all norms of humanitarian law, Croatia continued to systematically pursue a genocidal policy against the remaining Serb population. According to General A. Forand, former United Nations commander of Sector South, the United Nations patrols often saw Croatian soldiers close to many places where the crimes occurred, sometimes even committing them before the Croatian officials. According to a United Nations spokesman in Belgrade, Susan Manuel, United Nations observers also visited nine locations with over 600 fresh burial mounds in former Sector South and Croatian authorities prevented the United Nations from investigating the sites.

Obviously, Croatia's attempts to portray itself as a democratic society are totally contradicted by an organized policy of genocide and ethnic cleansing against the Serbs. In addition, the Security Council, in its

resolution 1009 (1995), explicitly demanded that Croatia "... create conditions conducive to the return of those persons who have left their homes". However, contrary to that request, Croatia recently adopted a Sequester Law that effectively deprives the Serbs of their property rights, in order to legitimize illegal seizure of property of the expelled Serb population.

In connection with agenda item 92, Croatia based its actions within the Fourth Committee and the General Assembly on the principle of protection of territorial integrity and sovereignty, which were allegedly threatened by the Federal Republic of Yugoslavia, only to mask its own aggression and vicious genocide which it has carried out against the Krajina Serbs, who had no choice but to resort to self-defence in order to survive.

My Government wishes to point out that the support of some countries to such policy of Croatia or its tacit approval carries responsibility for the maintenance of peace and security in the region. Methods used in the establishment of a state and the consequences thereof undoubtedly determine its future role in the region. Today, the Serb population from the United Nations Protected Areas represent victims of the Croatian brutal policies, whereas tomorrow it may well be someone else.

By burying the Serbs in mass graves, Croatia cannot possibly hope to bury the history and atrocities committed by the legitimate Croatian army in the name of creating a "democratic" Croatian State.

Therefore, in view of the above, my Government strongly urges all States that in 1994 endorsed General Assembly resolution 49/43 to re-examine their position and withhold support to the Croatian initiative this year.

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda item 92, and of the Security Council.

(Signed) Vladislav JOVANOVIC
Ambassador
Chargé d'affaires a.i.